

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

HERON COVE ASSOCIATION, et al.

Plaintiffs,

Case No.: 1:24-cv-11473-TLL-PTM

v

HON. THOMAS L. LUDINGTON

GLADWIN COUNTY BOARD OF
COMMISSIONERS, et al.,

Magistrate Judge Patricia T. Morris

Defendants.

**DEFENDANT FOUR LAKES TASK FORCE'S
EMERGENCY EX PARTE MOTION TO FILE BRIEF IN SUPPORT OF
ITS MOTION TO DISMISS IN EXCESS OF 25 PAGES**

Defendant Four Lakes Task Force ("FLTF"), through its counsel Clark Hill PLC and pursuant to Local Rule 7.1(d)(3)(A), moves the Court on an emergency basis for entry of an *ex parte* order granting FLTF leave to file a brief in support of its planned motion to dismiss, which is due on Tuesday, July 9, 2024, in excess of 25 pages. Specifically, FLTF requests leave to file a brief not to exceed 28 pages in length. In further support of the instant Motion, FTLF relies on the facts and law set forth in the accompanying brief.

Respectfully submitted,

CLARK HILL PLC

/s/ Bethany G. Stawasz

Joseph W. Colaianne (P47404)
Zachary C. Larsen (P72189)
Bethany G. Stawasz (P75578)
215 South Washington Square, Ste. 200
Lansing, MI 48933
517-318-3100
jcolaianne@clarkhill.com
zlarsen@clarkhill.com
bstawasz@clarkhill.com
*Attorneys for Defendant
Four Lakes Task Force*

Dated: July 5, 2024

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

HERON COVE ASSOCIATION, et al.

Plaintiffs,

Case No.: 1:24-cv-11473-TLL-PTM

v

HON. THOMAS L. LUDINGTON

GLADWIN COUNTY BOARD OF
COMMISSIONERS, et al.,

Magistrate Judge Patricia T. Morris

Defendants.

**BRIEF IN SUPPORT OF DEFENDANT FOUR LAKES TASK FORCE'S
EMERGENCY EX PARTE MOTION TO FILE BRIEF IN SUPPORT OF
ITS MOTION TO DISMISS IN EXCESS OF 25 PAGES**

ISSUE PRESENTED

Whether the Court should grant leave to Defendant Four Lakes Task Force to file a brief in support of its planned motion to dismiss in excess of 25 pages, where to do so serves the best interests of justice?

CONTROLLING AUTHORITY

Kimble v. Hosو, 439 F.3d 331 (CA6 2006)

E.D. Mich. L.R. 7.1(d)(3)(A)

LAW AND ARGUMENT

This litigation arises out of lake level special assessment rolls prepared by Defendant Four Lakes Task Force (“FLTF”) and approved by Defendant Gladwin County Board of Commissioners (the “County”), pursuant to the Part 307, “Inland Lakes Levels,” of the Michigan Natural Resources and Environmental Protection Act (“NRPEA”), to cover the administrative, operation, maintenance, repair, replacement and improvements costs to four high hazard dams required to maintain the lake levels of Smallwood, Secord, Wixom and Sanford Lakes located in Gladwin and Midland Counties. Plaintiffs are the Heron Cove Association (“HCA”), a non-profit corporation that represents property owners and interests within or adjacent to the Four Lakes Special Assessment District (“FLSAD”), and the individual members identified in the caption of this lawsuit (collectively, “Plaintiffs”).

In their First Amended Complaint, Plaintiffs assert four counts against Defendants for inverse condemnation under the U.S. and Michigan Constitutions (Counts I and II) and for violation of procedural due process (Counts III and IV). In lieu of filing an answer, Defendant FLTF intends to file a Motion to Dismiss pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6). The planned Motion includes numerous arguments for why this Court should not permit Plaintiffs’ instant action to proceed, as well as pertinent background information related to the applicable statutory framework under the NERPA and the state court

proceedings that predated Plaintiffs' initiation of this action. Specifically, and among other things, FLTF plans to assert: arguments pursuant to the doctrines of collateral estoppel and res judicata; arguments related to the non-justiciability of Plaintiffs' claims and their lack of Article III standing to assert the same; and arguments related to Plaintiffs' failure to comply with federal pleading standards.

Defendant FLTF respectfully submits that it requires in excess of 25 pages to comprehensively brief the above-described arguments and provide the Court with the factual background and legal authority it will require in order to rule on FLTF's planned motion. This Court has discretion over all pretrial matters. *See Kimble v. Hoso*, 439 F.3d 331, 336 (CA6 2006) ("[D]istrict courts ordinarily enjoy broad discretion in matters of pretrial management, scheduling, and docket control.") FLTF respectfully submits that the Court should exercise this discretion to grant FLTF leave to file a brief in support of its planned motion in excess of 25 pages. Specifically, FLTF requests leave to file a brief not to exceed 28 pages. FLTF respectfully submits that an order granting the requested leave will serve the best interests of justice.

Accordingly, to best serve the interests of justice, FLTF respectfully requests that this Court exercise its discretion and grant FLTF an additional three pages of briefing, thereby allowing FLTF a total of 28 pages, including signature block, when filing its brief in support of its planned motion to dismiss.

Respectfully submitted,

CLARK HILL PLC

/s/ Bethany G. Stawasz

Joseph W. Colaianne (P47404)
Zachary C. Larsen (P72189)
Bethany G. Stawasz (P75578)
215 South Washington Square, Ste. 200
Lansing, MI 48933
517-318-3100
jcolaianne@clarkhill.com
zlarsen@clarkhill.com
bstawasz@clarkhill.com
*Attorneys for Defendant
Four Lakes Task Force*

Dated: July 5, 2024

CERTIFICATE OF SERVICE

The undersigned certifies that on July 5, 2024, the foregoing document was filed with the Court via the CM/ECF system, which will send notification to all attorneys of record.

Respectfully submitted,

CLARK HILL PLC

/s/. Bethany G. Stawasz _____.

Joseph W. Colaianne (P47404)
Zachary C. Larsen (P72189)
Bethany G. Stawasz (P75578)
215 South Washington Square, Ste. 200
Lansing, MI 48933
517-318-3100
jcolaianne@clarkhill.com
zlarsen@clarkhill.com
bstawasz@clarkhill.com

*Attorneys for Defendant
Four Lakes Task Force*